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11 **BEFORE THE**
12 **BOARD OF REGISTERED NURSING**
13 **DEPARTMENT OF CONSUMER AFFAIRS**
14 **STATE OF CALIFORNIA**

15 In the Matter of the Statement of Issues
Against:

Case No.

STATEMENT OF ISSUES

16 **SUE JUNG**
17 **3123 Martin Luther King Way, #2**
18 **Oakland, CA 94609**

19 Respondent.

20
21 Complainant alleges:

22 **PARTIES**

23 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Statement of Issues solely in
24 her official capacity as the Executive Officer of the Board of Registered Nursing, Department of
25 Consumer Affairs.

26 2. On or about December 9, 2010, the Board of Registered Nursing, Department of
27 Consumer Affairs, received an application for a Registered Nurse License from Sue Jung
28 (Respondent). On or about December 7, 2010, Sue Jung certified under penalty of perjury to the

1 truthfulness of all statements, answers, and representations in the application. The Board denied
2 the application on March 21, 2011.

3 JURISDICTION

4 3. This Statement of Issues is brought before the Board of Registered Nursing (Board),
5 Department of Consumer Affairs, under the authority of the following laws. All section
6 references are to the Business and Professions Code unless otherwise indicated.

7 4. Section 2736 of the Code provides, in pertinent part, that the Board may deny a
8 license when it finds that the applicant has committed any acts constituting grounds for denial of
9 licensure under section 480 of that code.

10 STATUTORY/REGULATORY PROVISIONS

11 5. Section 2761 of the Code states:

12 "The board may take disciplinary action against a certified or licensed nurse or deny an
13 application for a certificate or license for any of the following:

14 "(a) Unprofessional conduct, which includes, but is not limited to, the following:

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16 "(f) Conviction of a felony or of any offense substantially related to the qualifications,
17 functions, and duties of a registered nurse, in which event the record of the conviction shall be
18 conclusive evidence thereof."

19 6. Section 2762 of the Code states:

20 "In addition to other acts constituting unprofessional conduct within the meaning of this
21 chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this
22 chapter to do any of the following:

23

24 "(b) Use any controlled substance as defined in Division 10 (commencing with Section
25 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in
26 Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to
27 himself or herself, any other person, or the public or to the extent that such use impairs his or her
28 ability to conduct with safety to the public the practice authorized by his or her license.

1 “(c) Be convicted of a criminal offense involving the prescription, consumption, or
2 self-administration of any of the substances described in subdivisions (a) and (b) of this section,
3 or the possession of, or falsification of a record pertaining to, the substances described in
4 subdivision (a) of this section, in which event the record of the conviction is conclusive evidence
5 thereof.”

6 7. Section 480 of the Code states:

7 “(a) A board may deny a license regulated by this code on the grounds that the applicant
8 has one of the following:

9 “(1) Been convicted of a crime. A conviction within the meaning of this section means a
10 plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a
11 board is permitted to take following the establishment of a conviction may be taken when the
12 time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when
13 an order granting probation is made suspending the imposition of sentence, irrespective of a
14 subsequent order under the provisions of Section 1203.4 of the Penal Code.

15 “(2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially
16 benefit himself or herself or another, or substantially injure another.

17 “(3)) Done any act that if done by a licentiate of the business or profession in question,
18 would be grounds for suspension or revocation of license.”

19 8. California Code of Regulations, title 16, 1444 states, in pertinent part, that a
20 conviction or act shall be considered to be substantially related to the qualifications, functions or
21 duties of a registered nurse if to a substantial degree it evidences the present of potential unfitness
22 of a registered nurse to practice in a manner consistent with the public health, safety, or welfare.

23 **FIRST CAUSE FOR DENIAL OF APPLICATION**

24 **(Conviction of a Crime)**

25 9. Respondent's application is subject to denial under sections 2736; 480, subdivisions
26 (a)(1), (2), and (3); and 2761, subdivision (f), in that she was convicted of the following crimes
27 that are substantially related to the qualifications, functions, and duties of a registered nurse:

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1 a. On or about October 20, 2010, in Alameda County Superior Court, Case No.
2 558828, entitled *People v. Jung, Sue*, Respondent was convicted by the court on her plea of guilty
3 to violating Vehicle Code section 23152, subdivision (b) (driving with a blood alcohol content of
4 .08% or higher).

5 b. On or about October 3, 2008, in San Francisco County Superior Court, Case
6 No. 02373961, entitled *People v. Sue Jung*, Respondent was convicted by the court for violating
7 Vehicle Code section 23103, subdivision (a) (reckless driving).

8 c. On or about December 8, 1995, in San Francisco Municipal Court, Case No.
9 1604459, entitled *People v. Sue Jung*, Respondent was convicted by the court for violating Penal
10 Code section 647, subdivision (b) (disorderly conduct/prostitution).

11 d. On or about June 21, 1994, in San Francisco Municipal Court, Case No.
12 1521598, entitled *People v. Sue Jung*, Respondent was convicted by the court for violating Penal
13 Code section 647, subdivision (b) (disorderly conduct/prostitution).

14 e. On or about April 16, 1993, in San Francisco Municipal Court, Case No.
15 1422693, entitled *People v. Sue Jung*, Respondent was convicted by the court for violating Penal
16 Code section 647, subdivision (b) (disorderly conduct/prostitution).

17 **SECOND CAUSE FOR DENIAL OF APPLICATION**

18 **(Unprofessional Conduct/Use of Alcohol)**

19 10. Respondent's application is subject to denial under Code section 2761, subdivision
20 (a), on the grounds of unprofessional conduct as defined in section 2762, subdivision (b), in that
21 on or about January 19, 2010, she drove a vehicle while under the influence of an alcoholic
22 beverage. The arresting officer obtained breath samples which showed that Respondent had a
23 blood alcohol content of .14%.

24 **THIRD CAUSE FOR DENIAL OF APPLICATION**

25 **(Conviction of Crime Involving the Consumption of Alcohol)**

26 11. Respondent's application is subject to denial under Code section 2761, subdivision
27 (a), on the grounds of unprofessional conduct in conjunction with section 2762(c), in that
28

1 Respondent was convicted of a crime involving the consumption of alcohol as set forth in
2 paragraph 9, subparagraph (a), above.

3 **FOURTH CAUSE FOR DENIAL OF APPLICATION**

4 **(Committed Acts Which if Done by a Licentiate)**

5 12. Respondent's application is subject to denial under section 2736 and 480, subdivision
6 (a)(3), in that Respondent committed acts which if done by a licentiate of the profession would
7 constitute grounds for discipline as set forth in paragraph 9, above. This conduct would constitute
8 grounds for discipline under Code section 2761, subdivision (a) (unprofessional conduct) in
9 conjunction with section 2761, subdivision (f) (conviction of a substantially related offense), and
10 2762, subdivision (c) (conviction of a crime involving consumption of alcohol).

11 **PRAYER**

12 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
13 and that following the hearing, the Board of Registered Nursing issue a decision:

- 14 1. Denying the application of Sue Jung for a Registered Nurse License;
15 2. Taking such other and further action as deemed necessary and proper.

16
17 DATED: _____

Louise R. Bailey
LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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